

Cottonwood Heights Police Department

Policy Manual

Outside Employment

1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for Cottonwood Heights Police Department (“*Department*”) employees (“*Officers*”) engaging in outside employment, all Officers shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

It is the policy of the Department to permit secondary employment by Officers, consistent with the efficient operation of the Department and for the protection of the public. Where actual or potential conflicts of interest exist, the Department may act to limit or prohibit outside employment. Officers have a duty to ensure their outside employment complies with this policy.

1040.1.1 DEFINITIONS

(1) Employment: The provision of service, whether or not in exchange for a fee, discount, or other service.

(2) Extra-duty secondary employment: Any employment by an off-duty officer approved by the Chief of Police, in writing, and performed for the primary purpose of providing additional public safety.

(3) Regular secondary employment: Any employment that will not require the use or potential use of Cottonwood Heights Police law enforcement powers by an off-duty Officer.

(4) Proprietary or contract security secondary employment: Any employment where Officers provide primarily security related duties.

(5) Outside Employment: Any extra-duty secondary employment, regular secondary employment or proprietary or contract security secondary employment

1040.1.2 UTAH PUBLIC OFFICERS ETHICS ACT

Officers will comply with Title 67 Chapter 16, UTAH CODE ANN., the purpose of which is to set standards of conduct for Officers where there are actual or potential conflicts of interest between their public duties and their private interests. UTAH CODE ANN. § 67-16-4 provides:

A public officer or public employee may not: Accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to improperly disclose controlled information which has gained by reason of his official position; Disclose or improperly use controlled, private, or protected information acquired by reason of his official position nor use such information for his or

another's private gain or benefit...Accept other employment which he might expect would impair his independence of judgment in the performance of his public duties; or Accept other employment which he might expect would interfere with the ethical performance of his public duties.

1040.2 OBTAINING APPROVAL

No Officer may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action. In order to obtain approval for outside employment, the Officer must complete an Outside Employment Application (the "*Application*") which shall be submitted to the Officer's immediate supervisor. The application shall be on a city-provided form and shall include, among other information:

- (a) whether the proposed outside employment constitutes proprietary or contract security secondary employment;
- (b) the type and amount of liability, workers compensation and other applicable insurance coverage to be provided by the proposed employer; and
- (c) whether the proposed employer will comply with state and federal income reporting and withholding requirements regarding the wages of the off-duty Officer .

The Application will then be forwarded through proper channels to the Chief of Police for consideration. If approved, the Officer will be provided with a copy of an approved outside employment permit ("*Permit*"). Unless otherwise indicated in writing on the Permit, a Permit shall be valid through the end of the calendar year in which the Permit is issued. Any Officer seeking to renew a Permit shall submit a new Application in a timely manner. Any Officer who's Application has been denied shall be provided a written reason for the denial at the time of the denial.

1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an Officer's Application is denied or withdrawn by the Department, the Officer may file a written notice of appeal to the Chief of Police within 10 days of the date of denial. If the Officer's appeal is denied, the Officer may file a grievance pursuant to UTAH ADMINISTRATIVE CODE R477-9-2.

1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any Permit may be revoked or suspended under the following circumstances:

- (a) If a Department supervisor determines that an Officer's performance needs improvement to reach an overall level of competency, the Chief of Police may, at his/her discretion, revoke any previously approved Permits. That revocation will stand until the Officer's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the Permit.
- (b) Suspension or revocation of a previously approved Permit may be included as a term or condition of sustained discipline.

(c) If, at any time during the term of a valid Permit, an Officer's conduct or outside employment conflicts with the provisions of Department policy, the Permit may be suspended or revoked.

(d) When an Officer is unable to perform at a full-duty capacity due to an injury or other condition, any previously approved Permit may be subjected to similar restrictions as those applicable to the Officer's full time duties until the Officer has returned to a full duty status.

1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of UTAH ADMINISTRATIVE CODE R477-9-2, the Department expressly reserves the right to deny any Application submitted by an Officer seeking to engage in any activity which:

- (a) Interferes with an Officer's efficiency performance;
- (b) Conflicts with the interests of the Department or the State of Utah; and/or
- (c) Gives reason for criticism or suspicion of conflicting interests or duties.

1040.3.1 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any Officer making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to Department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1040.3.2 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Assistant Chief of Police, Officers assigned to undercover or covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the Officer's law enforcement status.

1040.4 DEPARTMENT RESOURCES

Officers are prohibited from using any Department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of the Department or other agencies through the use of the Officer's position with the Department.

1040.4.1 REVIEW OF FINANCIAL RECORDS

Officers approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflicts of interest. Prior to providing written approval for an outside employment position, the Department may request that an Officer provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the Officer to provide the requested personal financial records could result in denial of the Permit. If, after approving a request for an outside employment position, the Department becomes concerned that a financial conflict of interest exists, the Department may request that the Officer provide his/her personal

financial records for review/audit. If the Officer elects not to provide the requested records, his/her Permit may be revoked pursuant to § 1040.2.2(c).

1040.4.2 REGULAR SECONDARY EMPLOYMENT

Officers may engage in regular secondary employment which meets the following criteria:

(a) the employment is of a non-law enforcement nature in which peace officer powers are not a condition of employment, the work provides no real or implied law enforcement service to the employer, and the work is not performed during duty hours; and

(b) the employment presents no actual or potential conflict of interest between the Officer's duties as an Officer and their duties for the secondary employer.

Examples of such conflicts of interest are: (i) Constable or Deputy Constable; (ii) process server; (iii) vehicle tow truck operator or impound lot attendant; (iv) reposessor or collection agent; (v) bonding company agent; (vi) any employment which requires the Officer to have access to law enforcement information, files, records, or services as a condition of employment; and (vii) assisting in the case preparation for the defense in any criminal action or proceeding, or assisting in the case preparation in a civil action where the Officer may be called to testify against a law enforcement officer.

1040.4.3 PROPRIETARY OR CONTRACT SECURITY SECONDARY EMPLOYMENT

Definitions:

(1) Contract security company means a person engaged in the business of providing security or guard services to another person for the purpose of protecting tangible personal property, real property, or the life and well being of human or animal life by assignment of security officers employed by the company and the use of specialized resources, motor vehicles, or equipment.

(2) Proprietary security organization means any organization which employs a security guard, or alarm response runner, solely for such organization and wherein an employer/employee relationship exist.

(a) Officers are prohibited from wearing their Department uniform while employed providing proprietary or contract security unless authorized by Special Order.

(b) Officers employed in proprietary or contract security shall contact the appropriate law enforcement jurisdiction to document the detention and/or arrest of shoplifters, trespassers, etc. This ensures appropriate record keeping by the jurisdictional agency. Officers may use the Spillman system to document arrests when working outside the city jurisdiction. All contract security related secondary employment will be worked in compliance with the "Security Personnel Licensing Act," UTAH CODE ANN. 58-63-101, *et seq.*

(c) Officers who engage in proprietary or contract security employment must submit to the secondary employment coordinator, through the Officer's chain of command, the employer-signed Permit.

(d) In addition to the Permit, Officers working proprietary security outside the city of Cottonwood Heights are required to provide proof of insurance in amounts determined by the Chief of Police.

(e) Officers must be off probation to engage in proprietary or contract security secondary employment.

1040.4.4 EXTRA-DUTY SECONDARY EMPLOYMENT

(a) Officers may only engage in extra-duty secondary employment in the Cottonwood Heights' jurisdiction and/or other jurisdictions as authorized, in writing, by the Chief. Reserve Officers and civilian members are prohibited from engaging in extra-duty secondary employment.

(b) Officers must be off probation to engage in extra-duty secondary employment.

(c) All extra-duty secondary employment will be coordinated through the Secondary Employment coordinator.

(d) Extra-duty services include: traffic control and pedestrian safety, crowd control, protection of life and property, law enforcement activities for governmental entities.

(e) While engaged in extra-duty secondary employment within the Cottonwood Heights' jurisdiction, Officers will handle law enforcement functions which occur on the premises of the extra-duty employer, including: (i) preliminary investigation, initial report, evidence handling; and (ii) physical arrest or citation. Custodial transportation, when required, will be handled by on-duty personnel.

(f) While engaged in extra-duty secondary employment Officer will act consistent with all policies and procedures of the Department.

(g) Uncompensated charity security work by Officers is subject to the secondary employment policy.

(h) Work hours for all secondary employment must be scheduled in a manner that does not conflict with or interfere with the Officer's performance of duty.

(i) In cases of Department need or emergency, Officers engaged in extra-duty secondary employment are subject to call-out, and may be required to leave the extra-duty secondary employment in such situations.

(j) Employment that constitutes a threat to the status or dignity of the Officer as a member of the law enforcement profession is prohibited. Examples of employment presenting a threat to the status or dignity of the profession are: (i) establishments which primarily deal in providing goods, entertainment, or material of a sexual nature; (ii) any employment where the sale, manufacture, consumption, or transport of alcoholic beverages is the principle activity (employment by the State Alcoholic Beverage Control Department as a security officer is exempted); and (iii) any gambling or gaming establishment.

1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an Officer terminates his/her outside employment during the period of a valid permit, the Officer shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through the normal procedures set forth in this policy. Officers shall also promptly submit in writing to the Chief of Police any material changes in outside employment, including any change in the number of hours, type of duties, or demands of any approved outside employment. Officers who are uncertain whether a change in outside employment is material are advised to report the change.

1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Officers engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five (5) days regarding whether they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue. In the event the Chief of Police determines that the outside employment should be discontinued or if the Officer fails to promptly notify his/her supervisor of his/her intentions regarding the Permit, a notice of revocation of the Officer's Permit will be forwarded to the involved Officer, and a copy shall be attached to the original Permit. Criteria for revoking the Permit include, but are not limited to, the following:

- (a) the outside employment is medically detrimental to the total recovery of the disabled Officer, as indicated by the City's professional medical advisors;
- (b) the outside employment performed requires the same or similar physical ability as would be required of an on-duty Officer; and
- (c) the Officer's failure to make timely notice of their intentions to their supervisor.

When the disabled Officer returns to full duty with the Department, a request (in writing) may be made to the Chief of Police to restore the Permit.

1040.6.1 LIMITATION ON HOURS

Unless expressly authorized by the Chief of Police, Officers may work a maximum of 24 hours of outside employment or a total of 64 hours in combination with regular duty in a Department work week.